IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 21363 of 2004

Between:

1. Mohd. Ishtiya, S/o. Mohd. Ishaq,
Tenant, Shop No.6, A-Block, Bearing Municipal No. 2-1-1/9, Wakf Complex, Mahaboobnagar.
2. Syed Gulam Yezdani, S/o. Syed Ismail,

Tenant, Shop No.20, C-Block, Bearing Municipal No. 2-1-7/20C, Wakf Complex, R/o. Veerannapet, Mahaboobnagar.
3. Zakir Ahmed Ansari, S/o. Maqdoom Ansari,
Tenant, Shop No.21, C-Block, Bearing Municipal No. 2-1-7/22, Wakf Complex, R/o. at Madina Masjid, Mahaboobnagar.
4.V. Raju Narayana Yadav, S/o. V. Ayyanna,
Tenant, Shop No.5, C-Block, Bearing Municipal No. 2-1-7/7/5C, Wakf Complex, R/o. at Lakshmi Nagar Colony, Mahaboobnagar.
5.Mohd. Omer, S/o. MOhd. Abdul Rasheed,
Tenant Shop No.1, A-Block, Bearing Municipal No. 2-1-1/16, Wakf Complex, Mahaboobnagar.
6.Mohd. Rafeeq, S/o. M.A. Rasheed,
Tenant Shop No.14, A-Block, Bearing Municipal No. 2-1-1/17, Wakf Complex, Mahaboobnagar.
7.Jameel Ahmed, S/o. M.A. Rasheed,
Tenant Shop No.15, A-Block, Bearing Municipal No. 2-1-1/18, Wakf Complex, Mahaboobnagar.
8.Mohd. Abdul Baseeth, S/o. Mohd. Abdul Rasheed,
Tenant Shop No.9, A-Block, Wakf Complex, Mahaboobnagar.
9.Mohammad, S/o. Abdul Shukoor,
Tenant Shop No.13 to 18, B-Block, Bearing Municipal No. 2-1-5/13, 2-1-5/14, 2-1-5/15, 2-1-5/16
2-1-5/17, 2-15/18, Wakf Complex, Mahaboobnagar.

10. Mohd. Hussain, S/o. MOhammad,
Tenant Shop No.18-B, Bearing Municipal No. 2-1-1/19, Residing at Mahaboobnagar.
11.K.R. Raghavender Rao, S/o. K.R. Rama Rao,
Tenant Shop No.7&9, B-Block, Bearing Municipal No. 2-1-5/8, and 2-1-5/10, Wakf Complex, Mahaboobnagar.
12.K. R. Ugender Rao, S/o. K.R. Rama Rao,
Tenant Shop No.8, B-Block, Bearing Municipal No. 2-1-5/9 Wakf Complex, Mahaboobnagar.
13. Mohd. Abdul Razzak, S/o. MOhd. Abdul Wahab,
Tenant Shop No.16-C, Bearing Municipal No. 2-1-7/18, Residing at Rajaiah Bowli Locality, Mahaboobnagar.
14.Chandramouli, S/o. Veerappa,
Tenant Shop No.12-C, Bearing Municipal No. 2-1-7/14, Wakf Complex, Residing at Mahaboobnagar.

... PETITIONERS

AND

1 The Commissioner, Mahaboobnagar Municipality, Mahaboobnagar.
2 The Special Officer, Wakf shopping Complex, Mahaboobnagar.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction in the nature of Mandamus, declaring the notices issued by the 1st respondent herein dated 28-9-2004 to all the petitioners and pre-warrant notice dated 12-10-2004 to the petitioners demanding the payment of Municipal Tax in respect of the shop rooms occupied by the petitioners (mentioned in the cause title) as being illegal, unjust, arbitrary and violative of Articles 14 and 21 of the Constitution of India and Section 91 of the Municipalities Act,

Counsel for the Petitioner: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent No.1: MR.THIMMA REDDY

Counsel for the Respondent No.2 : Mr.AM Qureshi, SC for wakf board.

The Court made the following :

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice B.Sudershan Reddy)

Heard the learned Counsel for the petitioners and the learned Standing Counsel for the respondents.

We find no merit in this writ petition requiring our interference. The petitioners are the tenants of the premises in question, in respect of which, the property tax has been levied by the Municipality of Mahabubnagar. The impugned proceedings dated 12-10-2004 are the pre-warrant notices directing the petitioners to pay the entire due amount on the pain of initiating coercive measures, such as seizure of movable and immovable properties belonging to the petitioners.

The contention of the petitioners is that they are not the owners of the premises and therefore, the property tax is not liable to be paid by them. The contention, in our considered opinion, is totally misconceived. That under the provisions of the Andhra Pradesh Municipalities Act, 1965, the Municipality is entitled to proceed against the owner as well as the person in possession for realization of the property tax payable in respect of the premises. The submission of the learned counsel for the petitioners that there is no clause in the lease deed entered into by and between the petitioners and the Wakf Board, which is the owner of the property as to the payment of the property tax by the petitioners, is of no

consequence. The Municipality is entitled to proceed against the petitioners and collect the property tax. It shall always be open to the petitioners to pay the property tax and claim the same from the owner of the property, viz., the Wakf Board.

That there is no such arrangement between the petitioners and the Wakf Board is not a ground to quash the impugned proceedings issued by the Municipality for realization of the property tax. We find no merit in the writ petition.

However, having regard to the facts and circumstances of the case, we direct the Municipality not to take any coercive steps against the petitioners pursuant to the impugned notice of warrant, for a period of eight weeks, enabling the petitioners to pay the amount.

The writ petition is accordingly dismissed. No order as to costs.

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(B. Sudershan Reddy,J)

Date:23..11.. 2004.

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(T.Ch.Surya Rao, J)

msv

To

1 The Commissioner, Mahabubnagar Municipality, Mahabubnagar,

2 The Special Officer,Wakf Shopping Complex, Mahaboobnagar.

3. Two C.D.Copies.